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Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

Implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions

Report of the Secretary-General**

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* A/55/150.
** The present report contains responses received as of 7 August 2000.

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I. Introduction

1. At its fifty-fourth session, the General Assembly adopted without a vote resolution 54/107 of 9 December 1999, entitled "Implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions". In the resolution, the General Assembly, inter alia:

(a) Renewed its invitation to the Security Council to consider the establishment of further mechanisms or procedures, as appropriate, for consultations as early as possible under Article 50 of the Charter of the United Nations with third States which are or may be confronted with special economic problems arising from the carrying out of preventive or enforcement measures imposed by the Council under Chapter VII of the Charter, with regard to a solution of those problems, including appropriate ways and means for increasing the effectiveness of its methods and procedures applied in the consideration of requests by the affected States for assistance;

(b) Welcomed once again the further measures taken by the Security Council since the adoption of General Assembly resolution 50/51 of 11 December 1995, most recently the note by the President of the Security Council of 29 January 1999 (S/1999/92), aimed at improving the work of the sanctions committees, including increasing the effectiveness and transparency of the sanctions committees, invited the Council to implement those measures, and strongly recommended that the Council continue its efforts to further enhance the functioning of the sanctions committees, to streamline their working procedures and to facilitate access to them by representatives of States that find themselves confronted with special economic problems arising from the carrying out of sanctions;

(c) Requested the Secretary-General to pursue the implementation of General Assembly resolutions 50/51 of 11 December 1995, 51/208 of 17 December 1996, 52/162 of 15 December 1997 and 53/107 of 8 December 1998 and to ensure that the competent units within the Secretariat develop the adequate capacity and appropriate modalities, technical procedures and guidelines to continue, on a regular basis, to collate and coordinate information about international assistance available to third States affected by the implementation of sanctions, to continue developing a possible methodology for assessing the adverse consequences actually incurred by third States and to explore innovative and practical measures of assistance to the affected third States;

(d) Welcomed the report of the Secretary-General containing a summary of the deliberations and main findings of the ad hoc expert group meeting on developing a methodology for assessing the consequences incurred by third States as a result of preventive or enforcement measures and on exploring innovative and practical measures of international assistance to the affected third States (A/53/312), and invited States and relevant international organizations within and outside the United Nations system which had not yet done so to provide their views regarding the report of the ad hoc expert group meeting;

(e) Requested the Secretary-General to present to the General Assembly his views on the deliberations and main findings, including the recommendations, of the ad hoc expert group on the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions, taking into account the views of States, the organizations of the United Nations system, international financial institutions and other international organizations, and to provide the relevant information, where appropriate, on other developments in that context, particularly on the work of the sanctions committees as referred to in the above-mentioned note by the President of the Security Council;

(f) Reaffirmed the important role of the General Assembly, the Economic and Social Council and the Committee for Programme and Coordination in mobilizing and monitoring, as appropriate, the economic assistance efforts by the international community and the United Nations system to States confronted with special economic problems arising from the carrying out of preventive or enforcement measures imposed by the Security Council and, as appropriate, in identifying solutions to the special economic problems of those States;

(g) Took note of the decision of the Economic and Social Council, in its resolution 1999/59 of 30 July 1999, to continue consideration of the question of assistance to third States affected by the application of sanctions, and decided to transmit the most recent report of the Secretary-General on the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions

(A/54/383) to the Council at its substantive session of 2000;

(h) Invited the organizations of the United Nations system, international financial institutions, other international organizations, regional organizations and Member States to address more specifically and directly, where appropriate, special economic problems of third States affected by sanctions imposed under Chapter VII of the Charter and, for that purpose, to consider improving procedures for consultations to maintain a constructive dialogue with such States, including through regular and frequent meetings as well as, where appropriate, special meetings between the affected third States and the donor community, with the participation of United Nations agencies and other international organizations;

(i) Requested the Secretary-General to submit a report on the implementation of the resolution to the General Assembly at its fifty-fifth session.

2. The present report has been prepared in response to the above request.

II. Measures for further improvement of the procedures and working methods of the Security Council and its sanctions committees related to assistance to third States affected by the application of sanctions

3. By a note dated 14 March 2000 (S/2000/213), the Secretary-General drew the attention of the members of the Security Council to General Assembly resolution 54/107, in particular to paragraphs 1 and 2 thereof (see para. 1 (a) and (b) above).

4. In paragraph 5 of General Assembly resolution 54/107 (see para. 1 (e) above), the Secretary-General was requested to provide the relevant information on the work of the sanctions committees as referred to in the 29 January 1999 note of the President of the Security Council (S/1999/92). The note stated that all members of the Security Council had indicated their agreement that the practical proposals contained therein would be used to improve the work of the sanctions committees in accordance with the resolutions concerned. In particular, paragraphs 1, 2, 7, 9 and 10 of the note are of relevance to the issue of assistance to third States affected by the application of sanctions.

5. Since the issuance of the note by the President of the Security Council, the sanctions committees and the Secretariat have initiated steps to implement practical proposals included in the note. For example, some of the committees concerned with arms embargoes and other sanctions regimes in Africa have established arrangements and channels of communication with regional and subregional organizations as well as organizations and bodies of the United Nations system. In addition, other committees have considered ways to enhance the effectiveness of exemptions to sanctions regimes on religious grounds and to improve arrangements in this regard. Further, in an effort to improve the technical effectiveness of the mandatory measures, expert panels have been established with a mandate to collect information on the sources and methods of violations of the sanctions regime and to recommend measures to end those violations and to improve the implementation of the sanctions. The committees have also improved the transparency of their work through substantive and detailed briefings by the chairpersons. Moreover, the Secretariat has taken steps to ensure that summary records of the formal meetings of the committees are made available in a more timely manner.

6. In keeping with the recommendation contained in the note that the chairpersons of the sanctions committees should visit the regions concerned, as appropriate, in order to obtain first-hand accounts of the impact of sanctions regimes, three such visits were made by the chairpersons of the Security Council Committee established pursuant to resolution 864 (1993) concerning the situation in Angola and the Security Council Committee established pursuant to resolution 1132 (1997) concerning Sierra Leone, and similar visits are planned by the chairpersons of other sanctions committees. The Chairperson of the Security Council Committee established pursuant to resolution 1160 (1998) also visited Kosovo, Federal Republic of Yugoslavia, as a member of the Security Council mission.

7. To assess the technical effectiveness of the mandatory measures, with regard to the situation in Angola, the Security Council, in its resolution 1237 (1999), established expert panels to investigate reported violations of measures it had imposed against

the União Nacional para a Independência Total de Angola (UNITA), including violations involving arms trafficking, oil supplies and the diamond trade, as well as the movement of UNITA funds. In addition, acting under Chapter VII of the Charter of the United Nations, the Council decided that the expert panels, through visits to the countries concerned, would also identify parties aiding and abetting those violations and recommend measures to end such violations and to improve the implementation of the measures imposed against UNITA. On 10 March 2000, the Chairman of the Angola Sanctions Committee transmitted to the Security Council the report of the Panel of Experts on violations of Security Council sanctions against UNITA (S/2000/203).

8. On 18 April 2000, the Security Council, in its resolution 1295 (2000), having noted the conclusions and recommendations of the Panel of Experts, requested the Secretary-General to establish a monitoring mechanism composed of up to five experts, for a period of six months from its effective entry into operation, to collect additional relevant information and investigate relevant leads relating to any allegations of violations of the measures contained in resolutions 864 (1993), 1127 (1997) and 1173 (1998) concerning the situation in Angola, including any relevant leads initiated by the Panel of Experts, including through visits to relevant countries, and to report periodically to the Angola Sanctions Committee, including providing a written report by 18 October 2000, with a view to improving the implementation of the measures imposed against UNITA. The Council further requested the Secretary-General, acting in consultation with the Committee, to appoint experts to serve on the monitoring mechanism. Following consultations with the Committee, the Secretary-General on 11 July 2000 appointed five experts to serve on the monitoring mechanism.

9. On 5 July 2000, in its resolution 1306 (2000) (para. 12), the Security Council requested the Sierra Leone Sanctions Committee to hold an exploratory hearing in New York to assess the role of diamonds in the Sierra Leone conflict and the link between trade in Sierra Leone diamonds and trade in arms and related materiel in violation of resolution 1171 (1998), involving representatives of interested States and regional organizations, the diamond industry and other relevant experts. The exploratory hearing was held on 31 July and 1 August 2000. Also in resolution 1306 (2000) (para. 19), the Council requested the Secretary-General, in consultation with the Committee, to establish a panel of experts, for an initial period of four months, consisting of no more than five members: (a) to collect information on possible violations of the measures imposed by paragraph 2 of resolution 1171 (1998) and the link between trade in diamonds and trade in arms and related materiel; (b) to consider the adequacy of air traffic control systems in the region; (c) to participate, if possible, in the exploratory hearing; and (d) to report to the Council no later than 31 October 2000. The panel was established by the Secretary-General on 2 August 2000 (S/2000/756).

10. As described in the note by the President of the Security Council dated 17 April 2000 (S/2000/319), the members of the Security Council decided to establish an informal working group of the Council to develop general recommendations on how to improve the effectiveness of United Nations sanctions, and to report its findings to the Council by 30 November 2000. The working group is to examine, inter alia, the following issues in all aspects with a view to improving the effectiveness of sanctions: (a) working methods of sanctions committees and inter-committee coordination; (b) capacity of the United Nations Secretariat; (c) coordination within the United Nations system and cooperation with regional and other international organizations; (d) design of sanctions resolutions, including the conditions for the maintaining/lifting of sanctions; (e) pre- and post-assessment reports and the ongoing evaluation of sanctions regimes; (f) monitoring and enforcement of sanctions; (g) unintended impacts of sanctions; (h) humanitarian exemptions; (i) targeted sanctions; (j) assisting Member States in implementing sanctions; (k) implementation of the recommendations contained in the 29 January 1999 note by the President of the Council (see para. 4 above).

11. In addition, the Secretariat continues to encourage and to provide substantive support to ongoing efforts to facilitate the design of sanctions imposed by the Security Council which are more effective and less blunt. The Interlaken expert meetings, sponsored by Switzerland; the London conference, sponsored by the Overseas Development Institute (ODI), United Kingdom of Great Britain and Northern Ireland; the expert meeting sponsored by the International Peace Academy with support from Canada; as well as the ongoing Bonn/Berlin process for

designing more effective arms embargo regimes and travel bans, have made a substantial contribution to the desired objective of sanctions regimes which are both more intelligent and more effective.

III. Review of the capacity and modalities of the Secretariat for implementing the intergovernmental mandates and recommendations of the ad hoc expert group meeting on assistance to third States affected by the application of sanctions

12. The Secretary-General has taken due note of paragraph 3 of General Assembly resolution 54/107 (see para. 1 (c) above). In this connection, the Secretary-General recalls the arrangements put in place in the Secretariat in 1996, as described in his report that year on the matter (A/51/317, paras. 4-11) and in his 1997 report (A/52/308, para. 5). Subsequently, those arrangements were reaffirmed in the 1998 report (A/53/312, para. 5) and in the 1999 report (A/54/383, para. 5), and continue to apply.

13. The Secretary-General has also taken note of paragraph 5 of resolution 54/107 (see para. 1 (e) above). It is the understanding of the Secretary-General that the General Assembly is interested in receiving his views regarding the feasibility of implementing the recommendations made by the ad hoc expert group to the Secretariat, in view of its limited capacity and resources. In this connection, the Secretary-General would indicate that the relevant capacity and modalities of the Secretariat are currently under review by several intergovernmental bodies concerned with the issue of assistance to third States affected by the application of sanctions. The Secretary-General has provided and will continue to provide his full support for the ongoing review process, including his views and recommendations as required, in order to ensure the implementation of the relevant intergovernmental mandates in a timely and efficient manner.

14. Under cover of a note dated 24 March 2000 (E/AC.51/2000/2), the Secretary-General transmitted the report of the Office of the Internal Oversight Services on the in-depth evaluation of the United Nations programmes on global development trends, issues and policies, and global approaches to social and microeconomic issues and policies, and the corresponding subprogrammes in the regional commissions. The Secretary-General took note of its findings and concurred with its recommendations. In particular, recommendation 3, on linkages between political and economic issues and policies, states:

> "After intergovernmental agreement on a methodology for assessing the impact of sanctions on third States, the Department of Economic and Social Affairs and the Department of Political Affairs should review the required activities and capacity needed within the Secretariat. The review should be the basis for proposals presented to the relevant intergovernmental bodies as part of the revision to the medium-term plan."

The Committee for Programme and Coordination recommended approval of the recommendation and observed that the Secretary-General should ensure that the Department of Economic and Social Affairs developed adequate capacity for the implementation of relevant intergovernmental mandates.

15. As indicated in paragraph 10 above, the working group of the Security Council on general issues of sanctions has a comprehensive mandate covering all aspects related to assistance to third States affected by the application of sanctions. The report of the ad hoc expert group meeting on the matter will be made available to the working group. It is the intention of the working group to benefit from all available sanctions expertise, including hearings of outside experts and briefings by representatives of the relevant parts of the Secretariat.

IV. Views provided by Governments and relevant international organizations regarding the report of the ad hoc expert group meeting and related issues of international assistance to third States affected by the application of sanctions

16. In accordance with paragraphs 4 and 8 of General Assembly resolution 54/107, which are (see paras. 1 (d) and (h) above), the Secretary-General circulated a note verbale to all States except those which had

already responded (see A/54/383 and Add.1) drawing their attention to the resolution and, in particular, inviting their views regarding the report of the ad hoc expert group meeting referred to in paragraph 4 of the resolution, as well as any other relevant information pursuant to paragraph 8. To date, no replies from Governments have been received. Any such replies will be issued as addenda to the present report.

17. With a view to further implementing paragraphs 4 and 8 of resolution 54/107, the Secretary-General invited the relevant international organizations both within and outside the United Nations system which had not yet done so to provide their views and other relevant information on the issues referred to in paragraphs 4 and 8 of the resolution. Comments received to date are summarized below. Any additional inputs will be included in addenda to the present report.

World Food Programme

18. For the World Food Programme (WFP) to operate effectively in countries where sanctions have been imposed, exemptions may be required not only for food but also for fuel, vehicles, generators and other non-food items related to the delivery of food aid. Access by WFP to ports, roads and airports must not be impeded both in the countries under sanctions and in neighbouring countries that may experience spillover effects.

19. WFP underscores the importance of a well-coordinated, multisectoral approach to the provision of humanitarian assistance during sanctions regimes. The delivery of food aid cannot be viewed in isolation. Adequate attention must also be paid to ensuring that partners are able to carry out essential activities related to beneficiaries' access to clean water supplies and basic health care in neighbouring countries. Hence there is a need for inter-agency coherence in the formulation of assistance interventions in third States.

20. WFP supports efforts to promote greater dialogue between the Security Council, its sanctions committees and humanitarian organizations. Better targeting of sanctions will help to avoid negative effects on third State populations. WFP appreciates the work being carried out to incorporate exemptions into sanctions regimes. Exemptions and clearance mechanisms should be clarified before sanctions are imposed in order to limit spillover effects on neighbouring countries and to improve the delivery of assistance to those countries.

21. Special attention should be given to dual-use items — those with both a military and civilian use — to reduce the risk of the collateral damage of sanctions and to avoid further deterioration in the humanitarian situation. For example, while restrictions on oil/fuel may effectively hinder the operations of armed forces, they could also have serious negative implications for the food security situation in neighbouring countries.

V. Recent developments related to the role of the General Assembly, the Economic and Social Council and the Committee for Programme and Coordination in the area of assistance to third States affected by the application of sanctions

22. Pursuant to paragraph 6 of General Assembly resolution 54/107 (see para. 1 (f) above), the General Assembly, the Economic and Social Council and the Committee for Programme and Coordination have continued to play their respective roles in the area of assistance to third States affected by the application of sanctions.

General Assembly

23. At its fifty-fourth session, the General Assembly had before it the report of the Secretary-General on economic assistance to States affected by the implementation of the Security Council resolutions imposing sanctions on the Federal Republic of Yugoslavia (A/54/534). The report contained updated information on bilateral and multilateral assistance provided to the affected countries in 1997-1999, primarily in the fields of balance of payments support, transport and infrastructure development, and trade and investment promotion. Particular reference was made in the report to the relevant activities in the affected countries of the United Nations development programmes and agencies, international financial institutions and regional organizations involved in the reconstruction and rehabilitation effort in the Balkan region.

24. In its resolution 54/96 G of 15 December 1999, entitled "Economic assistance to the Eastern European States affected by the developments in the Balkans", the General Assembly took note of the report of the Secretary-General (A/54/534) on the implementation of resolution 52/169 H of 16 December 1997 on economic assistance to States affected by the implementation of Security Council resolutions imposing sanctions on the Federal Republic of Yugoslavia and the conclusions contained therein, and welcomed the support already provided by the international community, in particular by the European Union and other donors, to the affected States to assist them in coping with their special economic problems during the transition period following the lifting of the sanctions pursuant to Security Council resolution 1074 (1996) of 1 October 1996, as well as in the process of economic adjustment following the developments in the Balkans. The Assembly also expressed concern at the special economic problems confronting the Eastern European States affected by the developments in the Balkans, in particular their impact on regional trade and economic relations and on navigation along the Danube and on the Adriatic Sea, and invited all States and the relevant international organizations, both within and outside the United Nations system, in particular the international financial institutions, to continue to take into account the special needs and situations of the affected States in providing support and assistance to their efforts for economic recovery, structural adjustment and development. The Secretary-General was requested to report to the General Assembly at its fifty-fifth session on the implementation of resolution 54/96 G.

Economic and Social Council

25. By a note dated 3 May 2000 on assistance to third States affected by the application of sanctions (E/2000/45), the Secretary-General drew the attention of the members of the Economic and Social Council to General Assembly resolution 54/107, in particular to paragraph 7 thereof (see para. 1 (g) above). Accordingly, the Council, at its substantive session of 2000, held in New York from 5 to 28 July 2000, had before it the most recent report of the Secretary-General on the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions (A/54/383 and Add.1). The Secretary-General drew the attention of members of the Council in particular to section IV of the report, summarizing the views communicated by Governments regarding the report of the ad hoc expert group meeting on assistance to third States affected by the application of sanctions; and to section V, summarizing the comments provided by the relevant international organizations and institutions within and outside the United Nations system regarding the report of the ad hoc expert group meeting and related issues of international assistance to third States affected by the application of sanctions.

26. In its resolution 2000/32 of 28 July 2000, entitled "Assistance to third States affected by the application of sanctions", the Economic and Social Council took note of the most recent report of the Secretary-General (ibid.), in particular sections IV and V thereof, welcomed the previous report of the Secretary-General containing a summary of the deliberations and main findings of the ad hoc expert group meeting on developing a methodology for assessing the consequences incurred by third States as a result of preventive or enforcement measures and on exploring innovative and practical measures of international assistance to the affected third States (A/53/312), and invited States and relevant international organizations within and outside the United Nations system which had not yet done so to provide their views regarding the report of the ad hoc expert group meeting. In the same resolution, the Council decided to continue consideration of the question, taking into account the relevant decisions of the General Assembly and the Security Council.

Committee for Programme and Coordination

27. The Committee for Programme and Coordination, during the first part of its fortieth session, held in New York from 5 June to 1 July 2000, considered the annual overview report of the Administrative Committee on Coordination (ACC) for 1999 (E/2000/53), which included a section entitled "Assistance to countries invoking Article 50 of the Charter of the United Nations". In its conclusions and recommendations, the Committee stressed the important role of ACC in the implementation of the relevant intergovernmental mandates for mobilizing and monitoring the economic assistance efforts by the international community and the United Nations system to States confronted with special economic problems arising from the carrying

out of preventive or enforcement measures imposed by the Security Council, identifying solutions to the special economic problems of those States, as well as in providing support to the efforts of the States affected by the developments in the Balkans for their economic recovery, structural adjustment and development (A/55/16 (Part I), para. 293).